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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

)
Amendment of Section 25.131)
of the Commission's Rules)
and Regulations to Eliminate the)
Licensing Requirement for Certain)

CC Docket No. 93-23
RM-7931

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FEDERAL COMMUNICATIONS COMMISSION

removing the burdens on users and FCC staff associated with individual licensing of earth stations, and promises to facilitate the introduction of new services.

I. THE CURRENT LICENSING REGULATION IS NOT LEGALLY REQUIRED.

stations in its *Equatorial* decision.⁵ There, the Commission determined that the public interest would be served by allowing receive-only earth stations to operate with the INTELSAT system for

recognizes that licensing serves little purpose for radio facilities that do not involve transmissions, such as the receive-only antennas at issue here, since only radiating earth stations create the potential for interference. In fact, in recognition of the absence of obligations to INTELSAT, the European Economic Community has already eliminated any licensing requirement for receive-only facilities.⁹

**B. Neither the Communications Act Nor the Satellite Act Precludes
the Elimination of the Current Licensing Requirement.**

Not only does international law impose no obligation on the FCC to license international receive-only earth stations, but domestic law does not mandate such regulation. COMSAT is in complete agreement with the FCC's tentative conclusion in the *NPRM* that neither the Communications Act of 1934 nor the Satellite Communications Act of 1962 ("the Satellite Act") requires the current licensing requirement.¹⁰ As COMSAT has explained in detail on previous occasions,¹¹ licensing is not required by Section 201(c)(7) of the Satellite Act, 47 U.S.C. § 721(c)(7), or under Title III of the Communications Act.¹²

⁹ See Reply of Communications Satellite Corporation, File No. I-S-P-92-004 (filed April 13, 1992) at 7. See also Commission Directive of 16 May 1988 on Competition in the Markets in Telecommunications Equipment (88/30/EEC; OJ L 131/73, 27.05.88).

¹⁰ See *NPRM* ¶ 9.

¹¹ E.g., COMSAT Petition, at 4-6; Reply of COMSAT, RM-7931 (filed May 5, 1992) at 4-5 ("COMSAT Reply"). COMSAT incorporates its earlier analyses herein by reference and reiterates them briefly below.

¹² Moreover, any concerns about unauthorized reception of international services can be addressed sufficiently by Section 705 of the Communications Act. 47 U.S.C. § 605. See *NPRM* ¶10.

Section 201(c)(7) of the Satellite Act mandates the licensing of "satellite terminal stations," as that term is defined in Section 103(2) of the Satellite Act. 47 U.S.C. § 702(2).¹³ Stated differently, the Satellite Act requires licensing only of earth stations that are integral components of domestic common carrier networks. Because the vast majority of international receive-only earth stations are not ordinarily connected operationally with domestic common carrier networks, licensing is not required, as with "satellite terminal stations."¹⁴ Of course, to the extent that any earth stations are "satellite terminal stations," licensing would be not be affected by a repeal of Section 25.131(j)(1).

Licensing under Title III of the Communications Act is not required either. Because receive-only facilities do not create the potential for interference to other radio stations, they do not implicate the concerns underlying Title III.¹⁵ Accordingly, the repeal of Section 25.131(j)(1) for international receive-only earth stations is consistent with U.S. law, excluding only those facilities that are "satellite terminal stations."

C. Repeal of the Licensing Requirement Would
Bring Public Interest Benefits

In the absence of any requirement under international or U.S. law for the licensing of receive-only earth stations, removal of the licensing requirement would clearly serve the public interest for a number of reasons. First, as the Commission notes in the *NPRM*, deregulation

¹³ *Id.* ¶11.

¹⁴ *See* COMSAT Reply at 4-5.

¹⁵ *See Equatorial* ¶ 16.

would alleviate the burden on users by eliminating costly and time-consuming procedures that tend to impede or deter the implementation of new services. The proposed rule change would facilitate the growth of international services involving numerous receive-only VSAT earth stations, for example.¹⁶ Concomitantly, existing services are likely to expand their customer base upon removal of the licensing requirement. Second, repeal of the licensing requirement would reduce unnecessary expenditure of the agency's scarce resources. Any perceived countervailing detriment, perhaps limited to a theoretically increased potential for interference to earth stations in shared frequency bands, can be resolved through voluntary registration, as discussed below.¹⁷

In sum, there are no prohibitions against deregulation under either international law or the Communications and Satellite Acts. In light of the public interest benefits associated with deregulation of international receive-only earth stations, COMSAT strongly supports the prompt removal of the licensing requirement, except for "satellite terminal stations."

¹⁶ The *NPRM* tentatively concludes that, with regard to receive-only earth stations that are used to provide transborder service, deregulation is appropriate. *NPRM* ¶ 13. COMSAT agrees. Maintaining a licensing requirement in the transborder context would force users into service arrangements involving unnecessary duplication of facilities. Domestic satellite operators would have an unwarranted advantage in that case by being able to retransmit foreign-originated signals to unregulated domestic receive-only earth stations whereas users desiring to receive foreign programming from international satellite operators would have to be licensed individually. *See* COMSAT Reply at 5-7. Moreover, such an action would be contrary to U.S. efforts to open up foreign markets to American programming services.

¹⁷ The Commission proposes that receive-only earth stations accessing a non-INTELSAT satellite will be permitted only if the U.S. has completed the consultation process with INTELSAT for such satellite. *NPRM* ¶13. This consultation requirement appears to be independent of the licensing rule at issue in this proceeding and is a prerequisite to separate satellite systems. Thus, COMSAT supports the agency's conclusion in this regard.

II. THE PROPOSED REGISTRATION PROCESS WOULD BE A

[REDACTED]

III. CONCLUSION

For the foregoing reasons, the Commission should remove the licensing requirement for all international receive-only earth stations, except "satellite terminal stations." The existing regulations are not required by law and no longer serve any legitimate purpose. Rather, they function to frustrate the rapid introduction of new satellite-based services, and thus unnecessarily deny consumers the benefits to be derived from those offerings in terms of lower prices and greater choice. Unlicensed receive-only earth stations, however, should be able to obtain protection from interference through voluntary registration.

Respectfully submitted,

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